

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Kirby Developments LLC,

Plaintiff,

Case No. 2:18-cv-500

v.

Judge Sarah D. Morrison
Magistrate Judge Kimberly A. Jolson

XPO Global Forwarding, Inc., *et al.*,

Defendants.

OPINION & ORDER

Defendant XPO Global Forwarding, Inc. and XPO Logistics, Inc. (collectively “XPO”) presently move to strike and dismiss portions of Defendant Afif Baltagi’s Answer (ECF No. 92) to XPO’s cross-claim against him pursuant to Fed. R. Civ. P. 12(f) and 12(b)(6). (ECF No. 128.) The motion is unopposed.

XPO filed its original Answer in this matter in July 2018. (ECF No. 27.) Nearly one year later, on June 17, 2019, XPO moved the Court for leave to amend its Answer to assert cross-claims against Defendant Afif Baltagi. (ECF No. 80.) That same day, Plaintiff Kirby Developments LLC also moved for leave to amend its Complaint. (ECF No. 81.) The Court’s July 11, 2019 Order granted both motions. (ECF No. 90.) That Order further provided that XPO “may file its cross-claim against Defendant Baltagi in its answer to the First Amended Complaint.” (ECF No. 90 at 2.)

Plaintiff Kirby’s First Amended Complaint was filed on July 11, 2019. (ECF No. 91.) Defendant Baltagi filed his Answer (ECF No. 92) to XPO’s Amended Answer to Plaintiff’s Original Complaint and Cross Claim (ECF No. 80-1) against him on July 12, 2019. However, XPO’s Amended Answer (ECF No. 80-1) was superseded by XPO’s subsequent Answer to

Plaintiff's First Amended Complaint and Cross-Claim Against Afif Baltagi (ECF No. 109), thus rendering Baltagi's July 12, 2019 Answer superfluous. Accordingly, XPO's Motion to Strike Portions of Baltagi's Answer and to Dismiss his Prayer for Relief (ECF No. 128) is **MOOT**.

The Court's holding means that Mr. Baltagi has not answered or responded to XPO's governing cross-claims (ECF No. 109) against him. Accordingly, Mr. Baltagi may have until December 2, 2019 to file his Answer or other document responsive to XPO's August 2, 2019 Answer to Plaintiff's First Amended Complaint and Cross-Claims against him (ECF No. 109).

IT IS SO ORDERED.

/s/ Sarah D. Morrison
SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE